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| 10/803,839 | 03/18/2004 | William M. Kurple | 45251/46701 | 6451 |
| 21888 | 7590 | 04/10/2006 | EXAMINER | |
| THOMPSON COBURN, LLP ONE US BANK PLAZA SUITE 3500 ST LOUIS, MO 63101 | | | SILBERMANN, JOANNE | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3611 | |

DATE MAILED: 04/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/803,839

Applicant(s)

KURPLE ET AL.

Examiner

Joanne Silbermann

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 29 is/are allowed.
- 6) ☒ Claim(s) 1-6, 10-16, 20-28 and 30-49 is/are rejected.
- 7) ☒ Claim(s) 7-9 and 17-19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/15, 11/8/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Figures 1-3, 5 in the reply filed on January 12, 2006 is acknowledged. The traversal is on the ground(s) that the invention is a kit and all the pieces are included. This is found to be persuasive and the requirement has been withdrawn.

Claim Objections

2. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 28 (second occurrence) through 48 have been renumbered 29-49.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the proximal portion of the sign body having a circular profile must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: a sign body, an extension of the at least one movable panel, the circular profile of the proximal portion of the sign body.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 13, 14, 17, 28, 31-35 (as renumbered) are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. In claim 13 "the sign body" lacks antecedent basis.

8. In claim 14 "the proximal portion of the sign body" lacks antecedent basis.

9. In claim 17 "the proximal portion of the sign body" lacks antecedent basis.

10. In claim 28 "the hook" lacks antecedent basis.

11. In claims 31-35 "The method" lacks antecedent basis, as these claims depend from claim 28, which recites a kit.

Claim Rejections - 35 USC § 102

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claims 1-3, 5, 6, 10-13, 15, 16, 20-22, 24-27, 36-46, 48 and 49 are rejected under 35 U.S.C. 102(b) as being anticipated by Sinkow, US #4,905,388.

14. Sinkow discloses a sign comprising a generally stationary sign body having first support panel 12 and second support panel 36 (Figure 2). Movable panels 22 having proximal and distal ends engage runner 30 so that the movable panels are parallel to the first or second surfaces of the support panels (Figure 1). The distal ends of the

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panels are adapted for supporting the sign from a support surface. The runner extends from the proximal end of the first surface to the proximal end of the second surface.

The movable panels are for displaying the same message (calendar information). The runner is coupled to the sign body as shown in Figure 2. Each of the support panels has an outwardly facing display portion.

15. The upper edge of each movable panel is considered to be an extension of the panel. The runner is a continuous spiral connector, which is flexible. The runner engages the movable panels by means of eyelets (Figures 1 and 2).

16. Regarding claims 26 and 27, movable panels 22 include apertures 65 (as in Figure 1).

17. Regarding the particular displays on the panels, patentable novelty cannot be principally predicated on mere printed matter and arrangements thereof, but must reside basically in physical structure. In re Montgomery, 102 USPQ 248 (CCPA 1954). The particular displays on the panels have been considered, but are not given patentable weight.

Claim Rejections - 35 USC § 103

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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19. Claims 4, 14, 23, 28, 30-35 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sinkow.

20. Sinkow does not teach the proximal portion of the sign body as having a circular profile, however this is considered to be entirely a matter of design choice. It would have been obvious to a person having ordinary skill in the art to choose the shape of the panel that best supports the desired display and retains the panel in place on the sign body.

21. Regarding claim 28, Sinkow does not show a hook, however such hooks are well known in the art. The examiner takes official notice of hooks commonly applied to calendars having ring bindings for hanging the calendar on a wall. It would have been obvious to one of ordinary skill to utilize such a hook with the display of Sinkow so the panels may be easily mounted on a wall, if desired.

22. Regarding the method claims, Sinkow does not specifically teach a method of using the display, however, the method steps of the instant claims (placing, selecting, moving, etc.) would have been obvious to one of ordinary skill given the structure of Sinkow.

23. Sinkow does not particularly teach a latch coupled to a support panel for removably retaining the movable panels, however this is well known in the art. The examiner takes official notice of calendars with movable panels attached to support panels (similar to Sinkow) wherein the lower corners of the movable panels are held in place by corner holders, etc. It would have been obvious to one of ordinary skill in the

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art to utilize such holders (or "latches") in the display of Sinkow so that the correct page may be held in place.

Allowable Subject Matter

24. Claims 7-9, 17-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

25. Claim 29 (as renumbered) is allowed.

26. The following is a statement of reasons for the indication of allowable subject matter: a self standing floor sign including first and second support panels, each having two ends and a message displaying surface, a transverse handle hingedly connected to the proximal ends of each panel thus defining a handle aperture therebetween, a ring encircling the handle and retained in the handle aperture by the first panel, and first and second movable panels each for displaying a message and each having a proximal end with an eyelet for slidably engaging the ring whereby the movable panels may then slide along the ring is not shown or suggested by the prior art of record.

Conclusion


27. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US patents 6493969 and 6131320 are cited as of interest.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joanne Silbermann whose telephone number is 571-272-6653. The examiner can normally be reached on M-F 5:30 - 2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Joanne Silbermann
Primary Examiner
Art Unit 3611

js
04 April 2006